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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/545,088	04/07/2000	Charles Gilbert Heisinger JR.		1969

30868 7590 08/02/2004

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EXAMINER

FLEURANTIN, JEAN B

ART UNIT PAPER NUMBER

2172

DATE MAILED: 08/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/545,088

Applicant(s)

HEISINGER, CHARLES GILBERT

Examiner

Jean B Fleurantin

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2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-40, 44 and 47-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-40, 44 and 47-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The appellant has filed Appeal Brief on 6 May 2004, which was carefully considered in an Appeal Conference. The conferees found appellants, argument, "receiving a telephone call from a user including one of the identification codes; identifying the received telephone number from the telephone call; retrieving the user information from the first database by comparing the receiving telephone number with the stored telephone numbers," claims 36, 47, 56 and 57 (page 10 of Appeal Brief) to be persuasive. It was concluded in the conference that the finality of the rejection of the last Office action is now withdrawn.

The Office regrets any inconvenience due to Applicant(s).

2. Claims 36-40, 44, 47-64 have been fully considered but are moot in view of the new ground(s) of rejection.

3. Claims 36-40, 44, 47-64 remain pending for examination.

4. The document (Statement of the Substance of the Interview as a supplemental to the Interview Summary) submitted on 27 May 2004 has been entered.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 57 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 57 recites the limitation “A method of purchasing a product, comprising the steps of: providing a first database containing store telephone numbers and user information corresponding to each of the stored telephone numbers” in claim. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 57 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106 IV.B.2.(b)

A claim that requires one or more acts to be performed defines a process. However, not all processes are statutory under 35 U.S.C. 101. Schrader, 22 F.3d at 296, 30 USPQ2d at 1460. To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application in the technological arts is

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either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application within the technological arts.

Claim 57, in view of the above cited MPEP section, are not statutory because they merely recite a number of computing steps without producing any tangible result and/or being limited to a practical application within the technological arts. The use of a computer has not been indicated.

Claim Rejections - 35 U.S.C. § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 36-40, 44 and 57-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,884,032 issued to Bateman et al. (hereinafter "Bateman") in view of U.S. Patent No. 5,913,210 issued to Call (hereinafter "Call").

As per claim 36, Call discloses, "a method of addressing an electronic message", (see col. 4, lines 53-57), comprising the steps of:

"providing a first database containing stored telephone numbers and user information corresponding to each of the stored telephone numbers" as a pc (4) capable of supporting generation of a URL of the organization's product and service database, (see col. 5, lines 3-12);

“providing a second database containing identification codes and addressing information corresponding to each identification codes” as the agent workstation computer (18) is set up to preview the html page associated with the caller’s URL before or while the outbound call is being made, (see col. 6, lines 48-50);

“receiving a telephone call from a user including one of the identification codes” as the information received from customer, including a caller identity, (see col. 6, lines 45-48), and column 9, lines 31-32;

“identifying the received telephone number from the telephone call” as the two parties will be in full voice communication and will be viewing the same multimedia screen which prompted the customers question, (see col. 6, lines 56-58);

“retrieving the user information from the first database by comparing the receiving telephone number with the stored telephone numbers” as calls from CLID’s come in the database can correlate the associated caller and URL, (see col. 9, lines 21-32), and column 9, lines 10-12;

“retrieving the addressing information corresponding to the received identification code” as a means for answering the call and viewing the customer relevant data simultaneously obtained by looking up the CLID in a customer database, as calls from CLID’s come in the database can correlate the associated caller and URL, (see col. 9, lines 21-32);

“addressing the electronic message according to the retrieved addressing information” as an html form including the user’s IP address and URL is filed in automatically and forwarded to the outbounding system, (see col. 7, lines 1-5). Bateman does not explicitly disclose sending at least a portion of the retrieved user information via electronic message, and wherein the first and second databases are used to create the electronic message. However, Call discloses supplied as

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all or part of the email message sent to that address, enabling the manufacturer to identify the specific product, (see col. 7, lines 10-30). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Bateman and Call with steps of sending at least a portion of the retrieved user information via the electronic message, and wherein the first and second databases are used to create the electronic message. Such modification would allow the teachings of Bateman and Call to provide facilitating the transfer of information about products from manufacturers or suppliers to resellers, customers and any others who need or desire that information, (see Call col. 1, lines 32-35).

As per claim 37, Bateman discloses, wherein the electronic message is a fax, (see col. 7, lines 38-40).

As per claim 38, Bateman discloses, wherein the electronic message is an email, (see col. 7, lines 38-40).

As per claim 39, Bateman discloses, wherein the electronic message is a voice mail, (see col. 7, lines 36-40).

As per claim 40, Bateman discloses, wherein the user information includes payment instructions and the payment instructions are sent via the electronic message, (see col. 8, lines 2-5).

As per claim 44, the limitations of claim 44 are rejected in the analysis of claim 57, and this claim is rejected on that basis.

As per claim 57, in addition to claim 36, Bateman does not disclose steps of purchasing the product based upon the user information retrieved from the first database and the product information retrieved from the second database. However, Call discloses steps of providing shared computer services which interoperates with a reseller's inventory control system to provide customers with the information they desire before and after making purchases, (see Call col. 12, lines 36-40). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Bateman and Call with steps of purchasing the product based upon the user information retrieved from the first database and the product information retrieved from the second database. Such modification would allow the teachings of Bateman and Call to provide facilitating the transfer of information about products from manufacturers or suppliers to resellers, customers, (see Call col. 1, lines 32-35).

As per claim 58, Bateman discloses, wherein user information includes address information, (see col. 3, lines 23-28).

As per claim 59, Bateman discloses, wherein address information includes shipping information, (see col. 3, lines 23-28).

As per claims 60 and 61, Bateman discloses, wherein address information includes billing information, (see col. 8, lines 2-5).

As per claim 62, Bateman discloses, wherein payment instructions include credit card information, (see col. 8, lines 2-5).

As per claims 63 and 64, Bateman discloses, wherein shipping information includes delivery method information, (see col. 4, lines 53-57).

8. Claims 47-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,884,032 issued to Bateman et al. (hereinafter "Bateman") in view of U.S. Patent No. 5,913,210 issued to Call (hereinafter "Call") and Applicant admitted Description Prior Art (hereinafter "Prior Art").

As per claims 47 and 56, in addition to claim 36, Bateman further discloses "a processor", (see figure 1, col. 5, lines 23-31). Bateman does not disclose an ANI for identifying the received telephone number from the telephone call. However, Prior Art discloses a database as its address routine means that would enable a user to respond to announcement by simply dialing a phone number and entering a keycode, with the identification of the caller provided by the ANI, (see Application Specification page 1, line 34 to page 2, line 5). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Bateman and Call and Prior Art with ANI. Such modification would

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allow the teachings of Bateman and Call and Prior Art to improve the accuracy of the method and system for telephonically selecting, addressing, and distributing messages.

As per claim 48, Bateman discloses, wherein the electronic message is a fax, (see col. 7, lines 38-40).

As per claim 49, Bateman discloses, wherein the electronic message is an email, (see col. 7, lines 38-40).

As per claim 50, Bateman discloses, wherein the electronic message is a voice mail, (see col. 7, lines 36-40).

As per claim 51, Bateman discloses, wherein the user information includes payment instructions and the payment instructions are sent via the electronic message, (see col. 8, lines 2-5).

As per claim 52, the limitations of claim 51 are rejected in the analysis of claim 36, and this claim is rejected on that basis.

As per claim 53, Bateman discloses the step of including a second processor (see figure 1, col. 5, lines 23-31) and wherein the second processor retrieves the user address from the electronic message, (see col. 9, lines 21-32).

As per claim 54, Bateman discloses, wherein the second processor sends a second electronic message to the user (see col. 8, lines 2-5).

As per claim 55, Bateman discloses, wherein the second electronic message includes an advertisement, (see col. 7, lines 36-40).

Prior Art

9. The prior art of record and not relied on upon is considered pertinent to applicant's disclosure.

U.S. Patent Numbers 6,154,738 and 6,418,441 issued to Call.

[Remainder of page intentionally left blank]

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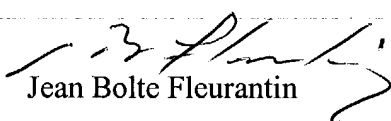
CONTACT INFORMATION

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B Fleurantin whose telephone number is 703-308-6718.

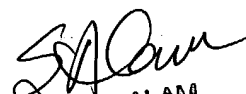
The examiner can normally be reached on 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John B Breene can be reached on 703-305-9790. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jean Bolte Fleurantin

July 21, 2004


SHAHID ALAM
PRIMARY EXAMINER